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BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

JUN 09 2000

CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF  
METROMEDIA FIBER NETWORK SERVICES,  
INC. FOR A CERTIFICATE OF CONVENIENCE  
AND NECESSITY TO PROVIDE FACILITIES-  
BASED AND RESOLD NON-SWITCHED  
DEDICATED AND PRIVATE LINE, HIGH  
CAPACITY FIBER OPTIC  
TELECOMMUNICATIONS SERVICE AND  
PETITION FOR COMPETITIVE  
CLASSIFICATION OF PROPOSED SERVICES.

DOCKET NO. T-03774A-99-0493

DECISION NO. 62628

**OPINION AND ORDER**

DATE OF HEARING: May 10, 2000  
PLACE OF HEARING: Phoenix, Arizona  
PRESIDING OFFICER: Stephen Gibelli  
APPEARANCES: Mr. Thomas H. Campbell and Mr. Michael T. Hallam,  
LEWIS AND ROCA, on behalf of Metromedia Fiber  
Network Services, Inc.;  
Ms. Jennifer Prendiville, FENNEMORE CRAIG, P.C.,  
on behalf of U S WEST Communications Inc.,  
Intervenor, and;  
Ms. Teena Wolfe, Staff Attorney, Legal Division, on  
behalf of the Utilities Division of the Arizona  
Corporation Commission.

**BY THE COMMISSION:**

Having considered the entire record herein and being fully advised in the premises, the  
Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. Metromedia Fiber Network Services, Inc. ("Applicant" or "Metromedia") is a  
Delaware corporation, authorized to do business in Arizona since 1999.
2. On September 3, 1999, Metromedia filed with the Commission an application for a  
Certificate of Convenience and Necessity ("Certificate") to provide competitive resold and facilities-  
based non-switched dedicated and private line, high capacity fiber optic telecommunications services

1 in Arizona.

2 3. On October 13, 1999, U S West Communications, Inc. ("U S WEST") filed a Mo  
3 for Leave to Intervene, and was granted intervention on October 28, 1999.

4 4. On November 3, 1999, the Applicant filed Affidavits of Publication indicating that it  
5 has published notice of the application.

6 5. On February 4, 2000 and March 29, 2000, the Applicant filed amendments to its  
7 application.

8 6. On April 13, 2000, the Commission's Utilities Division Staff ("Staff") filed its Staff  
9 Report, which recommended approval of the application and included a number of additional  
10 recommendations.

11 7. Pursuant to the April 26, 2000 Procedural Order, a hearing was held on May 10, 2000,  
12 and Applicant and Staff presented evidence. U S WEST cross-examined witnesses, but did not  
13 present any evidence.

14 8. U S WEST and Metromedia have reached an interconnection which was approved by  
15 the Commission in Decision No. 62294.

16 9. The management of Metromedia has many years of experience in the  
17 telecommunications industry.

18 10. Applicant has the technical capability to provide the services that are proposed in its  
19 application.

20 11. Currently there are several incumbent providers of local exchange, toll, and exchange  
21 access services in the service territory requested by Applicant, and at least twelve other entities have  
22 been authorized to provide competitive local exchange services in all or portions of that territory.

23 12. It is appropriate to classify all of Applicant's authorized services as competitive.

24 13. The Staff Report stated that Applicant has no market power and the reasonableness of  
25 its rates would be evaluated in a market with numerous competitors.

26 14. Staff recommended that Metromedia's application for a Certificate to provide  
27 competitive resold and facilities-based non-switched dedicated and private line, high capacity fiber  
28 optic telecommunications services in Arizona be granted subject to the following conditions:

- (a) That Metromedia be required to file its proposed tariffs within 30 days of an Order in this matter, and in accordance with this Decision;
- (b) That Metromedia agree to abide by and participate in the AUSF mechanism instituted in Decision No. 59623, dated April 24, 1996 (Docket No. R-0000-95-0498);
- (c) That Metromedia be required to certify, through the 911 service provider in the area in which it intends to provide service, that all issues associated with the provision of 911 service have been resolved with the emergency service providers within 30 days of an Order in this matter;
- (d) That Metromedia be required to certify that all notification requirements have been completed prior to a final determination in this proceeding;
- (e) That Metromedia be required to abide by all Commission rules and regulations.

15. According to Staff, Metromedia will be relying on the financial resources of its parent company Metromedia Fiber Network, Inc. ("MFN"), and has submitted a guaranty by MFN ensuring the financial obligations of Metromedia's Arizona operations. MFN has submitted its SEC Form 10K for the year ending December 31, 1998. These financial statements list assets of \$974.4 million, a retained deficit of \$42.2 million, and total equity of \$157.5 million. Additionally, these statements indicate that MFN had net income of \$986,000 on revenues of \$36.4 million.

16. Based on the financial information provided, Staff believes that Metromedia has sufficient financial strength to offer telecommunications services in Arizona.

17. On May 1, 2000, U S WEST filed comments requesting that Metromedia's Certificate be geographically limited to the areas that it can serve and intends to serve in the near future; that the Commission should specify that Metromedia is a public service corporation and it is required to operate as a carrier of last resort; and that Metromedia should be subject to fair rate of return and rate base requirements.

#### CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the application.

3. Notice of the application was given in accordance with the law.

4. A.R.S. § 40-282 allows a telecommunications company to file an application for Certificate to provide competitive telecommunications services.

5. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Telecommunications Service Rules, A.A.C. R14-2-1101, et seq. ("Competitive Rules"), it is in the public interest for Applicant to provide the telecommunications services set forth in its application.

6. With the conditions stated below, Metromedia is a fit and proper entity to receive a Certificate authorizing it to provide competitive resold and facilities-based non-switched dedicated and private line, high capacity fiber optic telecommunications services in Arizona.

7. Pursuant to A.A.C. R14-2-1108, the telecommunications services that Applicant intends to provide are competitive within Arizona.

8. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules, it is just and reasonable and in the public interest for Applicant to establish rates and charges which are not less than the Applicant's total service long-run incremental costs of providing the competitive services approved herein.

9. Staff's recommendations in Findings of Fact No. 14 are reasonable and should be adopted, in addition to further orders below.

## ORDER

IT IS THEREFORE ORDERED that the Application of Metromedia Fiber Network Services, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive resold and facilities-based non-switched dedicated and private line, high capacity fiber optic telecommunications services in Arizona shall be, and is hereby, granted, as conditioned below.

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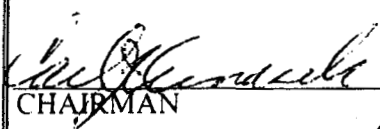


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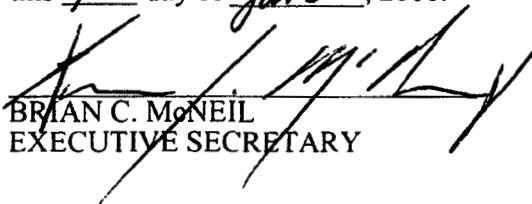
1 IT IS FURTHER ORDERED that prior to providing service, Metromedia Fiber Network  
2 Services, Inc. shall comply with all of the Staff recommendations set forth in Findings of Fact No. 14.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

5     
6 CHAIRMAN COMMISSIONER COMMISSIONER  
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9 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
10 Secretary of the Arizona Corporation Commission, have  
11 hereunto set my hand and caused the official seal of the  
12 Commission to be affixed at the Capitol, in the City of Phoenix,  
13 this 9TH day of June, 2000.

14   
15 BRIAN C. McNEIL  
16 EXECUTIVE SECRETARY

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DISSENT \_\_\_\_\_  
SG:bbs

1 SERVICE LIST FOR: METROMEDIA FIBER NETWORK SERVICES, INC  
2 DOCKET NO. T-03774A-99-0493  
3 Thomas H. Campbell  
4 LEWIS AND ROCA  
5 40 North Central Avenue  
6 Phoenix, Arizona 85004  
7 Attorneys for Metromedia Fiber Network Services, Inc.  
8  
9 Karen Nations  
10 METROMEDIA FIBER NETWORK SERVICES, INC.  
11 One Meadowlands Plaza  
12 East Rutherford, New Jersey 07073  
13  
14 Timothy Berg  
15 Jennifer Prendiville  
16 FENNEMORE CRAIG  
17 3003 North Central Avenue, Suite 2600  
18 Phoenix, Arizona 85012-2913  
19 Attorneys for U S WEST Communications, Inc.  
20  
21 Lyn Farmer, Chief Counsel  
22 Legal Division  
23 ARIZONA CORPORATION COMMISSION  
24 1200 West Washington Street  
25 Phoenix, Arizona 85007  
26  
27 Deborah Scott, Director  
28 Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28